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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

**PETER FASANELLI on behalf of himself
and others similarly situated,**

INDEX NO: 07-cv-00319 (DAB)

Plaintiff,

v.

**HEARTLAND BREWERY, INC. d/b/a
HEARTLAND BREWERY and d/b/a
SPANKY'S BBQ, HEARTLAND
BREWERY LLC, HEARTLAND
BREWERY 2, INC., EMPIRE STATE
BREWING CORP., and JONATHAN
BLOOSTEIN,**

Defendants.

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**PLAINTIFF'S MOTION FOR CONDITIONAL COLLECTIVE
CERTIFICATION AND FOR COURT FACILITATION OF NOTICE
PURSUANT TO 29 U.S.C. § 216(b)**

Plaintiff, on behalf of himself and all others similarly situated, by his undersigned attorneys, hereby moves for the following relief in this Fair Labor Standards Act collective action, upon the accompanying Memorandum of Law and annexed materials:

(1) Conditional certification of this action as a representative collective action pursuant to the FLSA, 29 U.S.C. § 216(b) on behalf of all persons employed by Heartland in any hourly position, including but not limited to waiters, bartenders, runners and/or bussers (“Covered Employees”) within the last three years.

(2) Court facilitated notice of this FLSA action to the Covered Employees including a consent form (opt-in form) as authorized by the FLSA.

(3) Approval of the proposed FLSA notice of this action and the consent form.

(4) Production of the Covered Employees in a computer readable data file containing their names, last known mailing addresses, alternate addresses, telephone numbers, Social Security numbers, work locations, and dates of employment.

(5) Posting of the Notice, along with the consent forms, in each of Heartland’s locations where Covered Employees are employed.

Dated: New York, New York
March 30, 2007

Respectfully submitted,

JOSEPH & HERZFELD LLP

By: /s/ D. Maimon Kirschenbaum
D. Maimon Kirschenbaum (DK-2338)

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Defendants.

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ORDER

AND NOW, this ____ day of _____, 2007, upon consideration of Plaintiff's Motion for Conditional Collective Certification Pursuant to 29 U.S.C. § 216(b), and Defendants' response thereto, if any, it is hereby ORDERED, that Plaintiff's Motion is GRANTED.

Judge Deborah A. Batts